



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Homer Garrison, Jr., Director
Department of Public Safety
Camp Mabry
Austin, Texas

Dear Sir:

Opinion No. O-4856

Re: Do the Peace Officers of the State of Texas have the authority to hold tires whose serial numbers have been obliterated or removed for the purpose of identification, and would the person in custody of such tires be subject to prosecution under Article 1436-1 of the Penal Code?

This will acknowledge receipt of your letter of September 17, 1948, in which you quote Article 1436-1 of the Penal Code in part, together with the sections and paragraphs therein contained, as follows:

"Article 1436-1 of the Penal Code, Section 49, Paragraph c, provides in part 'that any person who shall alter, change, erase, or mutilate, for the purpose of changing the identity of any motor number, serial number, or manufacturers number, placed on any motor vehicle, or any part thereof, shall be guilty of a felony.'

"Paragraph c, of the same Article and Section provides 'that any person who shall have in his possession a motor vehicle, a motor, a motor block, or any part thereof, knowing that the motor number, serial number, or manufacturers number, placed on the same by the manufacturer for the purpose of identification, has been changed, altered, erased, or mutilated, for the purpose of changing the identity of the motor vehicle, etc., shall be guilty of a misdemeanor.'

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"Section d, of the foregoing Article and Section states 'that any regularly constituted peace officer finding anyone in possession of a motor vehicle, motor, motor block, or any part thereof, on which the motor number, serial number, or manufacturers number, has been altered, changed, erased, or mutilated, shall immediately take into his possession such motor vehicle, and shall hold the same for a sufficient length of time, to establish identity and make the necessary investigation to determine ownership.'"

You are advised that in our opinion paragraph d, of Section 49, Article 1434-1 of the penal code authorizes peace officers of this State to take into their possession any motor vehicle on which there are tires whose serial numbers have been obliterated or removed, for a sufficient length of time to establish identity and make the necessary investigation to determine ownership of the automobile, or the tires in question.

You are further advised that in our opinion, any person who shall have in his possession a motor vehicle, or any part thereof, knowing that the serial number of such part of said automobile placed on the same by the Manufacturer for the purpose of identification, has been changed, altered, erased, or mutilated, for the purpose of changing the identity of said motor vehicle, or any part thereof, is subject to prosecution for having committed a misdemeanor.

It is our opinion that a tire, when mounted on the wheel of an automobile, becomes one of its most essential parts.

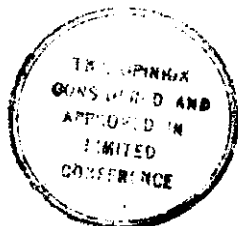
However we do not believe that Article 1434-1 authorizes peace officers to take into their possession tires, when not attached to an automobile, whose serial numbers have been obliterated or removed, for a sufficient length of time to establish identity and make necessary investigation to determine ownership of such tires.

We trust this answers your request.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Fred C. Chandler*
Fred C. Chandler
Assistant



FOG:JP

APPROVED OCT 2, 1942

James L. Ward

